IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION Nos.24587 AND 24586 OF 2005

WRIT PETITION No.24587 OF 2005

Between:

The Secretary to Government,

I & CAD Department, Govt. of A.P.,

Secretariat, Hyderabad, and others.

..... PETITIONERS

AND

Smt.N.Akhilabee, W/o.Late N.Malik Bhasha,

Unemployee, Sri Sailam Dam East,

Kurnool District.

....RESPONDENT

WRIT PETITION No.24586 OF 2005

Between:

The Secretary to Government,

I & CAD Department, Govt. of A.P.,

Secretariat, Hyderabad, and others.

..... PETITIONERS

AND

Smt.M.Parvathi, W/o.M.Mallikarjuna,

Unemployee, Sunnipenta Village,

Sri Sailam Mandal,

Kurnool District.

....RESPONDENT

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

RAMESH RANGANATHAN

WRIT PETITION Nos.24587 AND 24586 OF 2005

C O M M O N O R D E R

(Per Sri Justice Ramesh Ranganathan)

Aggrieved by the orders of A.P. Administrative Tribunal in O.A.No.2064 of 2005 and 4506 of 2005, dated 04.05.2005 and 19.08.2005 respectively, the present writ petitions are filed.

The Tribunal, by its orders dated 04.05.2005 and 19.08.2005, directed the petitioners herein to consider the cases of the respondents in terms of G.O.Ms.No.269, dated 11.08.1988, Memo No.356/Estt.II/80-12, dated 03.07.1981 and the order of this Court in W.P.No.10735 of 1999, dated 05.08.1999 and pass a reasoned order within a period of one month from the date of receipt of a copy of the order of the Tribunal.

The Tribunal set-aside the impugned Memo No.23964/Ser.V(1)/2004-6, dated 08.02.2005 refusing the request for appointment on compassionate grounds holding that since the deceased employee belonged to the work charged establishment, he did not satisfy the provisions of G.O.Ms.No.212, Finance & Planning (FW.PC.III) Department, dated 22.04.1994.

Learned Government Pleader for Services, would however concede, in our opinion rightly so, that G.O.Ms.No.212, dated 22.04.1994 has nothing to do with appointment on compassionate grounds. Since the very basis of the impugned memo dated 08.02.2005 is on a misconception regarding the applicability of G.O.Ms.No.212 and has been passed without application of mind, the order of the Tribunal setting aside the impugned memo dated 08.02.2005 is valid and does not call for any interference under Article 226 of the Constitution of India.

Learned Government Pleader would however submit that the petitioners' fathers-in-law, who were earlier employed in the work charged establishment, had opted for absorption into Government service and pursuant thereto their services were provincialised and they were appointed as regular employees. Learned Government Pleader would submit that G.O.Ms.No.269, dated 11.08.1998 relates only to work charged employees and does not relate to appointment, on compassionate grounds, of dependants of deceased government servants. Learned Government Pleader would submit that the order of the High Court in W.P.No.10735 of 1999, dated 05.08.1999, on which reliance was placed by the Tribunal, does not also relates to compassionate appointment of dependants of employees in the work-charged establishment.

It is no doubt true that G.O.Ms.No.269, dated 11.08.1998 relates to appointment on compassionate grounds, of dependants of deceased government servants and not to employees of the work charged establishment.

Be that as it may, G.O.Ms.No.687 dated 03.10.1977, as amended from time to time, is made applicable for compassionate appointment to dependants of deceased employees of the work charged establishment. As long as their cases are considered for appointment on compassionate grounds it makes little difference whether it is under G.O.Ms.No.269, dated 11.08.1998 or under G.O.Ms.No.687, dated 03.10.1977. Sri J.R.Manohara Rao, appearing on behalf of Mrs.A.Deepthi, learned counsel for the respondents, would submit that the respondents are seeking appointment on compassionate grounds and it would not make any difference whether they are considered under G.O.Ms.No.269, dated 11.08.1998 or under G.O.Ms.No.687, dated 03.10.1977 or under any other government order relating to appointment on compassionate grounds.

Having regard to the above circumstances, the order of the Tribunal is modified to the limited extent that the cases of the respondents shall be considered for appointment on compassionate grounds either in terms of G.O.Ms.No.269, dated 11.08.1998 read with Memo No.356/Estt.II/80-12, dated 03.07.1981 and the order of this Court dated 05.08.1999 in W.P.No.10735 of 1999 or in accordance with the guidelines issued in G.O.Ms.No.687, dated 03.10.1977, as amended from time to time, within a period of one month from the date of receipt of a copy of this order.

Subject to the above modification, the writ petitions are dismissed.

JUSTICE J.CHELAMESWAR

JUSTICE RAMESH RANGANATHAN

24th NOVEMBER, 2005

Note: Issue copy in three days.

(B/O) PGS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

RAMESH RANGANATHAN

WRIT PETITION Nos.24587 AND 24586 OF 2005

(Per Sri Justice Ramesh Ranganathan)

24th NOVEMBER, 2005